

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Respondent,

No. CR S-97-0216 GEB DAD P

vs.

LLOYD RAY WINBURN,

Movant.

FINDINGS AND RECOMMENDATIONS

On September 4, 2007, the court ordered movant to notify the court in writing whether he wished to proceed with his amended motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255, in light of the circumstances described in his unopposed motion to terminate supervised release filed May 25, 2007 and the assigned District Judge's termination of movant's remaining term of supervised release pursuant to that motion. Movant was advised that his failure to file a response within fifteen days from the service of the order would result in the dismissal of his amended motion. The time for movant's written response has expired and movant has not filed any response.

Accordingly, IT IS HEREBY RECOMMENDED that:

1. Movant's December 4, 2002 amended motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 be dismissed without prejudice; and

1           2. The clerk of the court be directed to close the companion civil case No. CIV S-  
2 02-2207 GEB DAD P.

3           These findings and recommendations are submitted to the United States District  
4 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty  
5 days after being served with these findings and recommendations, any party may file written  
6 objections with the court and serve a copy on all parties. Such a document should be captioned  
7 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections  
8 shall be served and filed within ten days after service of the objections. The parties are advised  
9 that failure to file objections within the specified time waives the right to appeal the District  
10 Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

11 DATED: October 9, 2007.

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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

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